



## Standing Up for the Human Rights: why Ireland should not ratify the EU Trade Agreement with Colombia



Standing Up for Human Rights:

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Joint agency submission to the Irish government: April 2014

*On average every day a human rights defender is attacked and every four days a defender is murdered in Colombia.<sup>2</sup>*

## Ireland must not ratify the EU-Colombia Free Trade Agreement

Colombia's dismal human rights record, combined with the ineffectiveness of the human rights mechanisms in the trade agreement, make it critical that ***Ireland must not ratify the EU-Colombia Free Trade Agreement***. There is no evidence that the Agreement will improve the human rights situation in Colombia. We are calling for the following;

- The Committee on Jobs, Enterprise & Employment should ***fully debate*** the Free Trade Agreement;
- Members of the Dáil and Seanad fully debate and vote against the ratification of the Free Trade Agreement;
- The Irish Government should take actions which encourage progress on human rights in Colombia, prior to any EU-Colombia trade agreement being signed, and ensure adequate human rights monitoring and compliance mechanisms are included in any future EU trade agreements with a human rights component.

## Introduction

This joint agency submission comes from a coalition of non-governmental organisations and trade union organisations concerned with human rights in Colombia.<sup>3</sup> In June 2014 Irish politicians will be asked to ratify a European Parliament Free Trade Agreement with Colombia and Peru, a necessary step by European regional parliaments before it can become legally enforceable. We are calling on the Irish government not to ratify this due to the gravity of human rights and humanitarian concerns in Colombia. We further believe that the human rights clauses in the agreement and the Colombian government's 'Roadmap' on human rights do not provide adequate protection or safeguards.

Ireland has earned an enviable reputation

as an honest broker, a defender of human rights, and as a leading authority on issues of international development. The recent public consultation on Ireland's foreign policy by the Department of Foreign Affairs and Trade and the debate on trade missions to the Gulf region raised some debate about our true commitment to human rights over trade. This is an opportunity for Irish politicians to ensure human rights are genuinely at the heart of our foreign policy.

## Human rights in Colombia

### Human rights defenders

There has been a continuous deterioration in security for human rights defenders since President Santos took office in 2010. In just two years, 2010 (32 killed) to 2012 (69 killed), the number of human

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<sup>1</sup> The Free Trade Agreement has been negotiated collectively between the EU and both Colombia and Peru. However, only Colombia is relevant to the discussion in this document;

<sup>2</sup> Somos Defensores (We are Defenders Organisation) Unknown Heroes, January – June 2013, page 47.

<sup>3</sup> Christian Aid Ireland, Irish Congress of Trade Unions, Latin America Solidarity Centre, Grupo Raices, Trócaire, Justice for Colombia (Ireland). Ceartas provided legal research and assistance in compiling this document.

rights defenders killed has more than doubled.<sup>4</sup> This alarming rise in killings has continued into 2013, according to the NGO Somos Defensores, some 70 human rights defenders, including community, indigenous and afro-descendant leaders, were killed in 2013. The National Trade Union School (ENS) reported that 26 members of trade unions were killed last year.<sup>5</sup> Land activists and those working on impunity have been particularly vulnerable to attacks.

#### **Summary of human rights concerns in Colombia**

- 5.5 million people are internally displaced by conflict, the highest in the world;
- In 2013 70 human rights defenders, including community, indigenous and afro-descendant leaders, were killed;
- Conflict has claimed at least 220,000 lives since 1958, with more than four of every five civilian;
- From 2001 to 2009 on average 54,410 women per year, 149 per day, or six women per hour, suffered from sexual violence in Colombia, many of them in the context of the conflict;
- Nearly 3,000 trade unionists have been murdered over the last three decades, making Colombia the most dangerous country for trade unionists;
- According to the National Indigenous Organization of Colombia (ONIC), 23 indigenous persons were killed in the first half of 2013;
- Human Rights NGOs such as FCSP (Committee of Solidarity with Political Prisoners) estimate the number of political prisoners as being over 9,000.

#### **Excessive use of force in tackling Colombian social protest**

2013 in Colombia was marked by escalating social protests, these have been linked to land, working conditions, opposition to free trade agreements and mega-project developments. All of these protests saw an excessive use of force by the Security Forces. The UN High Commissioner's Office for Human Rights undertook an observation visit following the second protest in June 2013 and "expressed serious concern regarding the violations of economic, social and cultural rights in the Catatumbo region". According to the UN Statement "the bullets that killed four protesters were high velocity which indicated that the security forces [had] exercised an excessive use of force against demonstrators."<sup>6</sup> In total it is reported that the protests have left 12 people dead; 315 people were arbitrarily detained; 40 people were beaten; 329 had some type of injury due to the attacks; 5 people suffered serious injuries that left them partially or totally incapacitated; along with reports of torture or cruel treatment, including sexual abuse.

#### **The negative impact of the US Free Trade Agreement**

The agricultural protests are linked to recent reforms related to the free-trade agreements already signed by Colombia; these reforms have been at the expense of the interests of peasant farmers, who make up 34 per cent of Colombia's population and in favour of large-

scale economic interests. The Government is engaged in dialogue with the protest groups and some agreements have been reached. However, these continue to be superficial and do not respond to the root causes of the precarious situation of peasants, Indigenous and Afro-Colombian Peoples. Their situation has worsened since the introduction of the US Free Trade Agreement. Imports of cheap subsistence products such as milk and corn have resulted in Colombian products being undermined by cheaper imports. This constitutes blatantly unfair competition as these products are subsidized by the US tax payer. Since the US Free Trade Agreement the purchase of imported dairy products has increased from US\$5,954m (2010) to

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<sup>4</sup> Informe Anual de 2012, Somos Defensores, April 2013.

<sup>5</sup> [www.ens.org.co](http://www.ens.org.co)

<sup>6</sup> Public Statement 'Oficina de la ONU para los Derechos Humanos espera que se llegue a acuerdos que garanticen los derechos humanos de la población del Catatumbo', 10 July 2013. <http://www.hchr.org.co/publico/comunicados/2013/cp1239.pdf>

US\$20,595m in 2012.<sup>7</sup> This has resulted in milk producers being forced to sell their products below the price of production.

### **The EU-Colombia FTA is not equipped to improve human rights in Colombia**

The European Parliament refused to ratify the final text of the EU-Colombia FTA with the standard human rights clauses traditionally included in such agreements. It instead called for a “binding road map on human, environmental and labour rights,” and stated “the practical enforceability of the Human Rights Clause must be guaranteed.”<sup>8</sup> However, neither the Road Map nor the FTA contain binding provisions for the enforcement of these rights.

The Parliament also called for the “*proper monitoring of the respect of human rights*”<sup>9</sup>, but in contrast to specific subcommittees created to deal with market access, labour and environmental issues, no specific independent body or committee has been established to monitor the implementation of the human rights clause in the FTA, or of the Road Map. It appears that these issues are to be discussed within the Trade Committee, in spite of the fact that a study commissioned by the International Trade committee of the European Parliament noted that it is “self-evidently inappropriate for the main organ of the agreement, [the] ‘Trade Committee’, to have the primary competence to deal with issues arising under the human rights clause.”<sup>10</sup> In addition, a major failing is that civil society is not represented at that level.

Meanwhile, the EU Strategic Framework and Action Plan on Human rights and Democracy, calls for a Human Rights Impact Assessment (HIA) to be carried out for “trade agreements that have significant economic, social and environmental impacts.”<sup>11</sup> This has not happened in this instance. Finally, while the Parliament in 2012 called for the inclusion of “*comprehensive human rights chapter, in addition to social and environmental chapters, in all future free trade agreements*,”<sup>12</sup> there is no such chapter in the EU-Colombia FTA.

The ‘Roadmap’ thus remains insufficient on a number of counts, in particular:

- An absence of adequate monitoring, evaluation and compliance mechanisms;
- Labour and environmental standards can only be enforced when abuses reach a level of human rights violations (not earlier). MEPs were advised that this “may make it difficult for the EU to live up to its own legal responsibilities” in terms of enforcing the required labour and environmental standards;

To underline the weakness that the above omissions create, there is to date no history of the EU suspending or terminating an agreement due to concerns in relation to human rights.

President Santos, on taking up office, expressed commitments to human rights and has passed a law to restore land to victims. These policy commitments have not yet translated into practice and change for the poor of Colombia. The EU should not strengthen its trade links until there is effective reform - not least because of the very grave danger of supporting the legalisation of illegal land grabs from some of the poorest and most disadvantaged in Colombia.

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<sup>7</sup> Data Source: Department of Commerce, U.S. Census Bureau, Foreign Trade

<sup>8</sup> European Parliament resolution of 13 June 2012 on the EU trade agreement with Colombia and Peru (2012/2628(RSP)): <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2012-0249+0+DOC+XML+V0//EN>.

<sup>9</sup> *ibid*

<sup>10</sup> [http://www.europarl.europa.eu/RegData/etudes/etudes/join/2012/433865/EXPO-INTA\\_ET\(2012\)433865\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2012/433865/EXPO-INTA_ET(2012)433865_EN.pdf) p.49

<sup>12</sup> European Parliament resolution of 13 December 2012 on the annual report on Human Rights and Democracy in the World 2011 and the European Union's policy on the matter (2012/2145(INI))



## **Ireland must not ratify the EU Free Trade Agreement with Colombia**

The scrutiny of individual parliaments across Europe are key to ensuring that any Free Trade Agreement signed between the EU and Colombia fulfils the EU ambition to “place Human Rights at the centre of its relations”.<sup>13</sup> This role now falls to elected Irish representatives, when the Free Trade Agreement with Colombia comes before them in June 2014.

### **Recommendations**

Given Colombia’s current situation in respect to the continuing high level of human rights violations Irish elected representatives should take the steps available to them to ensure that Ireland does not ratify this agreement. Specifically;

- The Committee on Jobs, Enterprise & Employment should **ensure that the Free Trade Agreement is fully debated** when it comes before the Committee later this year, with particular focus on the human rights situation in Colombia;
- Members of the Dáil and Seanad should **ensure that a full debate and, ultimately, vote, is held on the Free Trade Agreement with Colombia**;
- Members of the Dáil and Seanad should **vote against the ratification** of the Free Trade Agreement;
- The Irish Government should **urge further progress on human rights in Colombia**, prior to any EU-Colombia trade agreement being signed;
- The Irish Government should ensure that **adequate human rights monitoring and compliance mechanisms are included** in any future EU trade agreements with a human rights component.



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<sup>13</sup> See the EU Strategic Framework and Action Plan on Human Rights and Democracy under the link:  
[http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/EN/foraff/131181.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/131181.pdf)